

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**ELIZABETH JANE LINLEY**  
**a.k.a. ELIZABETH BARR MALGIERI**  
**2315 Franklin Avenue**  
**Santa Rosa, CA 95404**

**Registered Nurse License No. 482930**  
**Public Health Nurse Certificate No. 55984**

Respondent

Case No. 2013-48

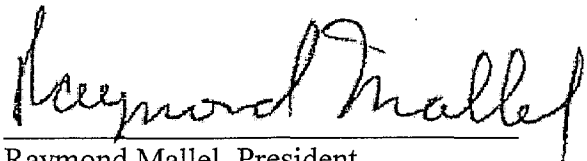
OAH No. 2012070777

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order for Public Reprimand is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **March 8, 2013**.

IT IS SO ORDERED **February 6, 2013**.



Raymond Mallel, President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JUDITH J. LOACH  
Deputy Attorney General  
4 State Bar No. 162030  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
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E-mail: Judith.Loach@doj.ca.gov  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **ELIZABETH JANE LINLEY**  
13 **AKA ELIZABETH BARR MALGIERI**  
2315 Franklin Avenue  
Santa Rosa, CA 95404  
14 Registered Nurse License No. 482930  
Public Health Nurse Certificate No. 55984

15  
16 Respondent.

Case No. 2013-48

OAH No. 2012070777

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER FOR PUBLIC  
REPROVAL**

[Bus. & Prof. Code § 495]

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. LOUISE R. BAILEY, M.ED., RN ("Complainant") is the Executive Officer of the  
22 Board of Registered Nursing. She brought this action solely in her official capacity and is  
23 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by  
24 Judith J. Loach, Deputy Attorney General.

25 2. Respondent Elizabeth Jane Linley, aka Elizabeth Barr Malgieri ("Respondent") is  
26 represented in this proceeding by attorney Robert F. Hahn, Esq., whose address is: Law Offices  
27 of Gould & Hahn, 2550 Ninth Street, Suite 101, Berkeley, CA 94710.  
28

3. On or about August 31, 1992, the Board of Registered Nursing issued Registered Nurse License No. 482930 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2013-48 and will expire on January 31, 2014, unless renewed.

4. On or about July 24, 1996, the Board of Registered Nursing issued Public Health Nurse Certificate No. 55984 to Respondent. The Public Health Nurse Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 2013-48 and will expire on January 31, 2014, unless renewed.

## JURISDICTION

5. Accusation No. 2013-48 was filed before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 17, 2012. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2013-48 is attached as Exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2013-48. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order for Public Reprimand.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 2013-48.

10. Respondent agrees that her Registered Nurse License is subject to discipline and she agrees to be bound by the Board of Registered Nursing's disciplinary terms as set forth in the Disciplinary Order below.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public Repeval shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order for Public Repeval, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order for Public Repeval is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order for Public Repeval may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that

1 the Board may, without further notice or formal proceeding, issue and enter the following

2 Disciplinary Order:

3 **DISCIPLINARY ORDER**


4 IT IS HEREBY ORDERED that Registered Nurse License No. 482930 and Public Health  
5 Nurse Certificate No. 55984 issued to Respondent Elizabeth Jane Linley, aka Elizabeth Barr  
6 Malgieri shall, by way of letter from the Board's Executive Officer, be publicly reprovod. The  
7 letter shall be in the same form as the letter attached as Exhibit B to this stipulation.

8 IT IS FURTHER ORDERED that within 90 days from the effective date of this decision,  
9 Respondent shall pay \$1,760.00 to the Board for its costs associated with the investigation and  
10 enforcement of this matter. Respondent shall be permitted to pay these costs in a payment plan  
11 approved by the Board. If Respondent fails to pay the Board costs as ordered, Respondent shall  
12 not be allowed to renew her Registered Nurse License until Respondent pays costs in full.

13 **ACCEPTANCE**

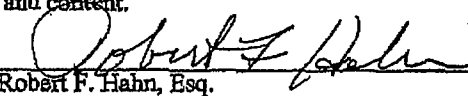
14 I have carefully read the above Stipulated Settlement and Disciplinary Order for Public  
15 Reproval and have fully discussed it with my attorney, Robert F. Hahn, Esq. I understand the  
16 stipulation and the effect it will have on my Registered Nurse License, and Public Health Nurse  
17 Certificate. I enter into this Stipulated Settlement and Disciplinary Order for Public Reproval  
18 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  
19 Board of Registered Nursing.

20  
21 DATED: 10/12/12

  
ELIZABETH JANE LINLEY  
Respondent

23  
24 I have read and fully discussed with Respondent Elizabeth Jane Linley the terms and  
25 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order  
26 for Public Reproval. I approve its form and content.

27 DATED: 10-15-12

  
Robert F. Hahn, Esq.  
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Reapproval is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 10-16-2012

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
FRANK H. PACOE  
Supervising Deputy Attorney General



JUDITH J. LOACH  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 2013-48**

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JUDITH J. LOACH  
Deputy Attorney General  
4 State Bar No. 162030  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5604  
6 Facsimile: (415) 703-5480  
E-mail: Judith.Loach@doj.ca.gov  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2013-48**

12 **ELIZABETH JANE LINLEY**  
13 **AKA ELIZABETH BARR MALGIERI**  
14 **2315 Franklin Avenue**  
**Santa Rosa, CA 95404**

**ACCUSATION**

15 **Registered Nurse License No. 482930**  
**Public Health Nurse Certificate No. 55984**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
22 of Consumer Affairs.

23 2. On or about August 31, 1992, the Board of Registered Nursing issued Registered  
24 Nurse License Number 482930 to Elizabeth Jane Linley, aka Elizabeth Barr Malgieri  
25 ("Respondent"). The Registered Nurse License was in full force and effect at all times relevant to  
26 the charges brought herein and will expire on January 31, 2014, unless renewed.

27 ///

28 ///



3. On or about July 24, 1996, the Board of Registered Nursing issued Public Health Nurse Certificate Number 55984 to Respondent. The Public Health Nurse Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2014, unless renewed.

## JURISDICTION

4. This Accusation is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the licensee.

### RELEVANT DISCIPLINARY STATUTES

7. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct . . .

• • •

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

• • •

8. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this

chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

9. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

#### COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

#### FIRST CAUSE FOR DISCIPLINE

##### (Criminal Conviction)

11. Respondent is subject to disciplinary action under sections 2761(f), 2762 (c), and/or 490 in that on or about November 24, 2011, in a criminal proceeding entitled *The People of the State of California v. Elizabeth Jane Linley*, in Sonoma County Superior Court, Case No. SCR

1 587452, Respondent was convicted by her plea of no contest to a violation of Vehicle Code  
2 section 23152(b) [driving while having 0.08 percent or more, by weight, of alcohol in the blood],  
3 a misdemeanor. Respondent was sentenced to 3 years probation, ordered to pay fines in the  
4 amount of \$2, 281.00, and ordered to complete the Sonoma County Drinking Driver First  
5 Offender Program.

6 The facts in support of this conviction are as follows:

7 a. On or about July 12, 2010 at 5:15 p.m., a California Highway Patrol Officer was  
8 dispatched to the scene of a non-injury traffic accident in a residential neighborhood in Monte  
9 Rio, California. On arrival at the scene, Respondent was found seated in a lawn chair near the  
10 front of her vehicle, which had collided with another vehicle.

11 b. Respondent displayed indicia of alcohol intoxication which included the odor of  
12 alcohol on her breath, red/watery eyes, and slurred/incoherent speech. She failed field sobriety  
13 testing at the scene. A blood test reported a blood alcohol level of .27 percent.

14 SECOND CAUSE FOR DISCIPLINE

15 (Using Alcohol in a Dangerous Manner)

16 12. Respondent is subject to disciplinary action under sections 2761(a) and/or 2762(b) in  
17 that on or about July 12, 2010, she was arrested in Monte Rio, California after colliding with  
18 another vehicle. Respondent displayed indicia of alcohol intoxication, failed field sobriety testing  
19 and had a blood alcohol level of .27 percent.

20 PRAYER

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
22 and that following the hearing, the Board of Registered Nursing issue a decision:

23 1. Revoking or suspending Registered Nurse License Number 482930, issued to  
24 Elizabeth Jane Linley, aka Elizabeth Barr Malgieri;

25 2. Revoking or suspending Public Health Nurse Certificate Number 55984, issued to  
26 Elizabeth Jane Linley, aka Elizabeth Barr Malgieri;

27 3. Ordering Elizabeth Jane Linley, aka Elizabeth Barr Malgieri to pay the Board of  
28

1 Registered Nursing the reasonable costs of the investigation and enforcement of this case,  
2 pursuant to Business and Professions Code section 125.3; and

3 4. Taking such other and further action as deemed necessary and proper.

4  
5 DATED:

July 17, 2012

Louise R. Bailey  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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**Exhibit B**

**Letter of Public Reproval in Case No. 2013-48**

**Board of Registered Nursing**  
P O Box 944210, Sacramento, CA 94244-2100  
P (916) 322-3350 | [www.rn.ca.gov](http://www.rn.ca.gov)  
**Louise R. Bailey, M.ED., RN, Executive Officer**



February 6, 2013

Elizabeth Jane Linley  
2315 Franklin Avenue  
Santa Rosa, CA 95404

RE: LETTER OF PUBLIC REPROVAL  
In the Matter of the Accusation against: Elizabeth Jane Linley,  
Registered Nurse License No. 482930, Public Health Nurse Certificate No. 55984

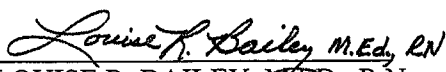
Dear Ms. Linley:

On July 17, 2012, the Board of Registered Nursing, Department of Consumer Affairs, State of California, filed an Accusation against your Registered Nurse License and Public Health Nurse Certificate. The Accusation alleged that you engaged in unprofessional conduct under Business and Professions Code sections 2761(a), (f) and 2762 (b) and (c). Said violations were related to your arrest on July 12, 2010, for driving under the influence of alcohol and subsequent conviction for said offense on November 24, 2011.

The Board has decided that you are safe to practice as a Registered Nurse and Public Health Nurse based on the fact that this incident occurred over two years ago, that you have no prior discipline by the Board and that you have taken significant remedial action to address the circumstances that led to your prior arrest and conviction.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Registered Nursing, Department of Consumer Affairs issues this letter of Public Reproval.

Sincerely,

  
LOUISE R. BAILEY, M.ED., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California